

FEDERAL ELECTION COMMISSION  
999 E Street N.W.  
Washington, D.C. 20463

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FIRST GENERAL COUNSEL'S REPORT

MUR 6412

DATE COMPLAINT RECEIVED: 10/27/2010

DATE OF NOTIFICATIONS: 11/4/2010

LAST RESPONSE RECEIVED: 12/21/2010

DATE ACTIVATED: 1/25/2011

EXPIRATION OF SOL: 9/30/2015 – 10/22/2015

COMPLAINANT:

Christopher C. Healy, Chairman  
Connecticut Republican Party

RESPONDENTS:

Blumenthal for Senate and Judith Zamore, in her  
official capacity as treasurer<sup>1</sup>

Richard Blumenthal

Cynthia Blumenthal

RELEVANT STATUTES  
AND REGULATIONS:

2 U.S.C. § 441a(a)(1)(A)

2 U.S.C. § 441a(f)

2 U.S.C. § 441f

11 C.F.R. § 110.4(b)(1)(i)-(iv)

INTERNAL REPORTS CHECKED:

FEC Database

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

This matter involves allegations that Senator Richard Blumenthal ("Senator Blumenthal") did not have the personal funds necessary to make the approximately \$2.5 million in candidate loans reported by his principal campaign committee, Blumenthal for Senate and Judith Zamore, in her official capacity as treasurer ("Committee"), because the amount of the loans exceeded the

<sup>1</sup> At the time of the filing of the complaint, the Committee's treasurer was listed as Ellen Camhi. However, an Amended Statement of Organization was filed on April 15, 2011, listing Judith Zamore as the current treasurer.

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1 amount of personal funds he previously disclosed in his Personal Financial Disclosure Report  
2 ("PFD Report") filed with the Secretary of the Senate.<sup>2</sup> The complaint alleges that the funds  
3 used to make the candidate loans actually came from funds belonging to Senator Blumenthal's  
4 wife, Cynthia Blumenthal ("Mrs. Blumenthal"), in violation of the Federal Election Campaign  
5 Act of 1971, as amended ("Act"). Complaint at 3. Specifically, the complaint alleges that  
6 1) Mrs. Blumenthal violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution;  
7 2) Mr. and Mrs. Blumenthal violated 2 U.S.C. § 441f by making a contribution in the name of  
8 another; and 3) the Committee violated 18 U.S.C. § 1001, by knowingly filing false disclosure  
9 reports with the Federal Election Commission ("FEC" or "the Commission").<sup>3</sup> Although not  
10 specifically alleged, the complaint also can be read to assert that Senator Blumenthal and the  
11 Committee violated 2 U.S.C. §§ 441a(f) and 441f by accepting excessive contributions and  
12 contributions made in the name of another.

13 Respondents state that Senator Blumenthal had sufficient personal funds to make the  
14 loans. Respondents explain that Senator Blumenthal withdrew funds from accounts listed on the  
15 PFD Report, and also sold his interest in a number of pre-candidacy personal assets, including  
16 his personal residence, an asset which was not required to be listed on the PFD Report.  
17 Respondents further explain that the proceeds from the sale of Senator Blumenthal's interest in

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<sup>2</sup> Senator Blumenthal made a total of approximately \$2.5 million (\$500,000 + \$1,750,000 + \$262,882 = \$2,512,882) in loans to his campaign committee on September 30, October 7, and October 22, 2010, respectively. The third loan was made after the date of the complaint.

<sup>3</sup> Complainant alleges that, if Senator Blumenthal and his Committee knew that his "personal" loans partially consisted of Mrs. Blumenthal's personal funds, and yet disclosed the funds as being solely those of Senator Blumenthal on the Committee's reports, then Senator Blumenthal and the Committee may have violated federal criminal law, 18 U.S.C. § 1001, by knowingly filing false reports with the Commission. Complaint at 4. Allegations regarding potential criminal violation of 18 U.S.C. § 1001 are not within the Commission's jurisdiction and, therefore, this report does not contain an analysis of this allegation.

1 the personal residence were not included on the PFD Report, because the sale took place five  
2 months after the PFD Report filing date.

3 For the reasons discussed below, we recommend that the Commission 1) find no reason  
4 to believe that Richard Blumenthal violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(iii) by  
5 knowingly helping or assisting, by allowing his name to be used, in the making of a contribution  
6 in the name of another; 2) find no reason to believe that Cynthia Blumenthal violated 2 U.S.C.  
7 §§ 441a(a)(1)(A) and 441f, and 11 C.F.R. § 110.4(b)(1)(i) by making an excessive contribution  
8 to the Committee, or by making a contribution in the name of another; and 3) find no reason to  
9 believe that Richard Blumenthal or the Committee violated 2 U.S.C. §§ 441a(f) and 441f, and  
10 11 C.F.R. § 110.4(b)(1)(iv) by knowingly accepting an excessive contribution or a contribution  
11 made in the name of another.

## 12 II. FACTUAL AND LEGAL ANALYSIS

### 13 A. Factual Background

14 Richard Blumenthal was a Senate candidate for the state of Connecticut during the 2010  
15 election cycle and his principal campaign committee is Blumenthal for Senate and Judith  
16 Zamore, in her official capacity as treasurer. Cynthia Blumenthal is Richard Blumenthal's  
17 spouse.

18 On March 4, 2010, Cynthia Blumenthal made maximum contributions to her husband's  
19 campaign with two \$2,400 contributions to the Committee, one designated for the primary  
20 election and the other designated for the general election. Complaint at 1 and Exhibit 1; *see also*  
21 2 U.S.C. § 441a(a)(1)(A).

22 On April 19, 2010, Senator Blumenthal filed his PFD Report which indicated that, as of  
23 that date, Senator Blumenthal's personal assets, excluding those belonging to his wife, totaled

1 between \$559,000 and \$1,360,000. Complaint at 1 and Exhibit 2. In addition, the PFD Report  
2 stated that Senator Blumenthal's share of joint assets with his wife ranged from \$83,000 and  
3 \$207,500, and his total assets ranged from \$682,000 and \$1,567,000. *Id.*; see also Exhibit 3.

4 Senator Blumenthal and his wife also jointly owned a house in Greenwich, Connecticut  
5 ("the Greenwich Property") that served as their personal residence. As his personal residence  
6 held or maintained purely for recreational or vacation purposes, the Greenwich Property was not  
7 required to be listed on Senator Blumenthal's PFD Report filed on April 12, 2010. See  
8 <http://ethics.senate.gov/downloads/pdf/files/fdinstruct10.pdf>. On June 23, 2010, the property was  
9 appraised by a state-certified appraiser as having a value between \$4,000,000 and \$4,018,600.  
10 Joint Response at 2 and Exhibit A.

11 On September 8, 2010, Senator Blumenthal sold his 50% interest in the Greenwich  
12 Property to Mrs. Blumenthal for \$1,607,994.13, which, based on the appraisal, is equal to the fair  
13 market value of a 50% interest in a \$4,000,000 property, encumbered by a \$784,011.75  
14 mortgage. See Joint Response, Exhibit B (Bill of Sale and Indemnification Agreement).<sup>4</sup>  
15 Senator Blumenthal did not have any obligation to amend his PFD Report after the sale of the  
16 residence. See <http://ethics.senate.gov/downloads/pdf/files/fdinstruct10.pdf>.

17 The Committee subsequently reported that Senator Blumenthal made three candidate  
18 loans, totaling approximately \$2.5 million, to his campaign. Specifically, on September 30,  
19 2010, Senator Blumenthal loaned his campaign \$500,000 from his personal funds; on October 7,  
20 2010, he loaned his campaign an additional \$1,750,000; and as of the filing of the complaint,

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<sup>4</sup> The Bill of Sale indicates that the Greenwich Property is held pursuant to the Abigail and John Trust ("Trust") which was created under a trust agreement on November 7, 1994, between Senator and Mrs. Blumenthal as "grantors" and Thomas N. Keltner, Jr. as "trustee." The publicly available tax records indicate that the Greenwich Property was originally purchased on February 16, 1995, and that the trustee is listed as the owner of the property. Senator and Mrs. Blumenthal are the current beneficiaries of the income and principal of the Trust. The Bill of Sale further indicates that Senator Blumenthal sold to Mrs. Blumenthal "all of his right, title and interest in and to the income and the principal (the Beneficial Interest) of the Trust" for \$1,607,994.13.

1 Senator Blumenthal had reported loaning his campaign a total of \$2.25 million. Complaint at 2  
2 and Exhibits 4 and 5. In addition, on October 22, 2010, Senator Blumenthal made a third loan to  
3 the Committee in the amount of \$262,882. This final loan was not mentioned in the complaint.  
4 Joint Response at 1.

5 **B. Legal Analysis**

6 The Act provides that no person may make, and no candidate, officer, or employee of a  
7 political committee shall knowingly accept, any contribution in violation of the provisions of  
8 section 441a. 2 U.S.C. § 441a. During the 2010 election cycle, the individual contribution limit  
9 was \$2,400. A contribution is defined as "a gift, subscription, loan (except for a loan made in  
10 accordance with 11 C.F.R. § 100.72 and 100.73), advance, or deposit of money or anything of  
11 value made by any person for the purpose of influencing any election for Federal office."

12 11 C.F.R. § 100.52(a). A loan that exceeds the contribution limitations of 2 U.S.C. § 441a and  
13 11 C.F.R. Part 100 is unlawful whether or not it is repaid. 11 C.F.R. § 100.52(b)(1).

14 Commission regulations provide that "candidates for Federal office may make unlimited  
15 expenditures from personal funds." 11 C.F.R. § 110.10. The regulations define "personal  
16 assets" as "[a]mounts derived from any asset that, under applicable State law, at the time the  
17 individual becomes a candidate, the candidate had legal right of access to or control over, and  
18 with respect to which the candidate had (1) legal and rightful title; or (2) an equitable interest."

19 11 C.F.R. § 100.33(a). The personal share of jointly owned assets is defined by Commission  
20 regulations as "[a]mounts derived from a portion of assets that are owned jointly by the  
21 candidate and the candidate's spouse ... [i]f no specific share is indicated by an instrument of  
22 conveyance or ownership, the value of one-half of the property." 11 C.F.R. § 100.33(c).

1           The Commission has previously concluded that "[n]o contribution ... would occur where  
2   a candidate sells property that he or she owned prior to becoming a candidate at the property's  
3   normal and usual market price *regardless of whether or not the purchaser is a family member or*  
4   prohibited from making a campaign contribution." See Advisory Opinion 1984-60 (Mulloy)  
5   (emphasis added) (permitting a candidate to use funds received from selling a one-fourth interest  
6   in property to family to retire campaign debts). The Commission has also stated that it would  
7   "view an appraisal by an expert using acceptable appraisal methods as prima facie evidence of  
8   the property's usual and normal market price." See AO 1984-60 (Mulloy) at note 5; see also  
9   MUR 5421 (Kerry for President), Factual and Legal Analysis at p. 6 (Commission treated an  
10   appraisal by state-certified appraiser as "prima facie evidence of fair market value" of the  
11   property).

12           The Act also prohibits a person from making a contribution in the name of another  
13   person, knowingly permitting his name to be used to effect such a contribution, or knowingly  
14   accepting a contribution made by one person in the name of another. 2 U.S.C. § 441f. The  
15   Commission's regulations also prohibit a person from knowingly permitting his or her name to  
16   be used in making a contribution in the name of another or knowingly helping or assisting any  
17   person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(1)(ii) and (iii).

18           The available information indicates that the funds used by Senator Blumenthal to make  
19   three loans to his Committee, totaling approximately \$2.5 million, originated from his own  
20   personal funds, including the assets previously disclosed on the PFD Report and the  
21   \$1,607,994.13 in proceeds from the sale of his 50% interest in the pre-candidacy residence to his  
22   wife. The state-certified appraisal obtained by Senator and Mrs. Blumenthal on June 23, 2010,  
23   indicates that the Greenwich Property was appraised at between \$4,000,000 and \$4,018,600.

1 Joint Response at 2 and Exhibit A. As indicated previously, the Senator had a 50% beneficial  
2 interest in the Greenwich Property that could be sold to his wife and the proceeds used to make  
3 the candidate loans at issue. On September 8, 2010, Senator Blumenthal sold his interest in the  
4 Greenwich Property to Mrs. Blumenthal for \$1,607,994.13, which appears to represent the fair  
5 market value of a 50% interest in a \$4 million property, encumbered by a \$784,011.75 mortgage.  
6 See Joint Response at 3 and Exhibit B. Due to the timing of the filing of the PFD Report and the  
7 sale of the interest in the Greenwich Property, Senator Blumenthal could not have disclosed the  
8 sale proceeds as income on his PFD Report. The sum of the personal funds Senator Blumenthal  
9 reported on the PFD and the proceeds he received from the sale of the personal residence is more  
10 than the \$2.5 million in candidate loans reported by the Committee.

11 Based on the foregoing, it appears that Senator Blumenthal had sufficient personal funds  
12 from which to make the approximately \$2.5 million in candidate loans that were reported by the  
13 Committee. Accordingly, we recommend that the Commission 1) find no reason to believe that  
14 Richard Blumenthal violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iii) by knowingly  
15 helping or assisting, or allowing his name to be used, in the making of a contribution in the name  
16 of another; 2) find no reason to believe that Cynthia Blumenthal violated 2 U.S.C.  
17 §§ 441a(a)(1)(A) and 441f, and 11 C.F.R. § 110.4(b)(1)(i) by making an excessive contribution  
18 to the Committee or by making a contribution in the name of another; and 3) find no reason to  
19 believe that Richard Blumenthal, Blumenthal for Senate and Judith Zamore, in her official  
20 capacity as treasurer, violated 2 U.S.C. §§ 441a(f) and 441f, and 11 C.F.R. § 110.4(b)(1)(iv) by  
21 knowingly accepting either an excessive contribution or a contribution in the name of another.

**III. RECOMMENDATIONS**

1. Find no reason to believe that Richard Blumenthal violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(iii) by knowingly helping or assisting, or allowing his name to be used, in the making of a contribution in the name of another.
2. Find no reason to believe that Cynthia Blumenthal violated 2 U.S.C. §§ 441a(a)(1)(A), 441f, and 11 C.F.R. § 110.4(b)(1)(i) by making an excessive contribution or by making a contribution in the name of another.
3. Find no reason to believe that Richard Blumenthal, Blumenthal for Senate and Judith Zamore, in her official capacity as treasurer, violated 2 U.S.C. §§ 441a(f), 441f, and 11 C.F.R. § 110.4(b)(1)(iv) by knowingly accepting an excessive contribution or a contribution in the name of another.
4. Approve the appropriate Factual and Legal Analysis.
5. Approve the appropriate letters.
6. Close the file.

4-21-11

Date

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